



U.S. Department of Justice

United States Attorney

Eastern District of Pennsylvania

615 Chestnut Street

Suite 1250

Philadelphia, Pennsylvania 19106-4476

(215) 861-8200

FOR IMMEDIATE RELEASE

May 31, 2006

**TWO PA. SENATE STAFFERS CHARGED WITH OBSTRUCTING
FEDERAL INVESTIGATION**

PHILADELPHIA – United States Attorney Pat Meehan and Acting FBI Special Agent-in-Charge Brian W. Lynch announced today that two computer services employees of the Pennsylvania State Senate have been charged with obstruction of justice for allegedly engaging in the widespread destruction of e-mail and other electronic evidence, in an attempt to keep this evidence from FBI scrutiny in the course of an ongoing federal investigation. Joining Meehan and Lynch in today's announcement was Peter Alvarado, Special Agent-in-Charge of the IRS Criminal Investigation Division.

According to a criminal complaint¹ and affidavit unsealed today, upon learning that the Senator whom they were assigned to assist with computer services was the subject of a federal investigation, Leonard Luchko and Mark Eister engaged in a concerted effort to destroy all e-mail concerning the Senator and another entity so that it could not be recovered by investigators.

Luchko, 49, of Collingdale, Pennsylvania, was employed by Senate Democratic Computer Services (SDCS), an entity of the Pennsylvania State Senate which provided computer assistance to Democratic members of the Senate. Luchko was assigned to the Senator's district office in Philadelphia. Eister, 36, of Camp Hill, Pennsylvania, was employed by SDCS at the State Capitol in Harrisburg, and aided the Senator's office there. Both were arrested this morning.

The ongoing investigation at issue is being conducted by the Federal Bureau of Investigation and by the Internal Revenue Service Criminal Investigation Division, and has focused in part on whether and to what extent the Senator has used his authority and position to demand and obtain payments from corporations to a non-profit organization associated with the Senator's South Philadelphia district office.² The investigation also seeks to determine if or how the Senator has benefitted, both politically and personally, from expenditures made by the non-profit organization.

¹ A criminal complaint is an accusation. A defendant is presumed innocent unless and until proven guilty.

² In keeping with Justice Department policy, the affidavit of FBI Special Agent Vicki Humphreys which supports the arrest warrants does not refer by name to uncharged persons or entities which may have been involved in wrongdoing or have other privacy interests. Thus, for example, the Senator is referred to as "the Senator" and the non-profit organization is referred to as "the Organization."

May 31, 2006

Page 2

The affidavit alleges that, once the federal investigation became known to the Senator and his staff in 2003, Luchko, Eister, and others embarked on a systematic and ongoing effort to delete and destroy all electronic traces of all e-mail sent by or to the Senator, which was held on computers and servers belonging to the State Senate and used by the Senator and his staff; and to likewise delete all e-mail and other electronic documents of the Organization which might be relevant to the investigation. In part, over a period spanning more than a year, Luchko and Eister repeatedly instructed all employees of the Senator to delete on a regular basis any e-mail sent by or to the Senator, and then often “wiped” computer hard drives in order to assure that no evidence of the deleted e-mails remained.

“This was a deliberate, systematic, and ultimately successful effort to interfere with a federal investigation,” said Meehan. “It is an affront to our system of justice, and to the right and duty of a federal grand jury to obtain any evidence regarding a suspected violation of the law. And when investigators are delayed or hampered in trying to determine if a public official has abused his position, it is not only a violation of federal law, in this case it is a crime against the people of the Commonwealth of Pennsylvania.”

“It is crucial to our system of justice that the FBI be able to collect evidence of alleged wrongdoing without impediment or obstruction,” said Lynch.

A series of articles that began in the *Philadelphia Inquirer* in November 2003 heightened concerns by the Senator and his staff of possible law enforcement scrutiny. On December 1, 2003, Luchko wrote an e-mail which was sent to 24 members of the Senator’s staff, including the executive director of the non-profit organization who was also the Senator’s deputy chief of staff at the time, and copied to the Senator. The e-mail read in part, “This is to inform all of you that under ANY circumstance are you to save any email from or to the Senator.” In response to the executive director’s question, “What’s this about again?” Luchko replied, “[The Senator] called me into his office today and told me to start going around and checking everyone’s Computer and make sure they were not saving his mail.” (Note that all of the e-mails quoted bear the same punctuation, grammar, etc. as found in the originals of these documents except where brackets have been used in order to exclude actual names of uncharged persons.)

On January 25, 2004, the same day the *Philadelphia Inquirer* ran a front page story headlined, “FBI Probes [the Senator’s] Deal,” Luchko sent an e-mail to several staffers with a copy to the Senator. It stated, “The senator asked me to inform the staff that until further notice we will be stepping up security.” It went on to order, among other things, that “Anyone who is using a Blackberry is to set up a time.....so we can wipe them.” At about the same time, Luchko sent a separate message to other staffers saying, “The FBI probe into the Senator has really set him off he wants us to do a number of security checks starting tomorrow.....He wants all of the Blackberries wiped and [another computer aide] and I have to bring in all laptops and do DOD wipes on them etc.” A “wipe” involves the use of a program to assure that deleted e-mails and other files cannot be recovered from a computer. A “DOD wipe” refers to a wipe meeting Department of Defense standards, in which the unallocated space of a computer’s hard drive (where deleted files may be found) is erased seven times to assure its destruction.

May 31, 2006

Page 3

Luchko sent periodic reminders to staff to destroy all e-mail involving the Senator. For example, on June 14, 2004, Luchko wrote to an aide to the Senator that a scan revealed that the aide had retained 249 e-mails which were sent to or from the Senator, adding, "You have to address this TODAY because the next email I sent you he gets CC on because [the Senator] wants the results of these scans and I really don't want to do that." The aide replied, "Please tell me what I need to do," and Luchko answered, "I can delete them for you," to which the aide responded, "Please Do! Thank you!!" A forensic examination of that aide's computer conducted after the Senator's office computers were seized on February 18, 2005 found almost no e-mail remaining concerning the Senator in that aide's account. On another occasion, on August 26, 2004, Luchko wrote that he discovered "quite a bit" of e-mail regarding the Senator held on an aide's computer from the period of October 2001 to May 2002. Luchko said that he wiped the records, and asked the Senator's chief of staff to set the wayward aide straight.

The affidavit cites forensic evidence of many wipes run over the course of a year on many items of equipment belonging to the Senator and his staff. On June 7, 2004, Luchko wrote to his supervisor, "Boss is driving us ALL nuts with this FBI madness. I life just got so complicated it isn't even funny and the killer is I can't tell anyone about it." He later added: "That's just the way it has to be for now they (FBI) won't be around forever. Then we can go back to our normal routine."

The affidavit also cites evidence that just as Luchko instructed the Philadelphia staff to delete all e-mail regarding the Senator, Eister took similar steps in Harrisburg. Specifically, in or about June 2004, Eister instructed all staff members in Harrisburg to delete all e-mail to and from the Senator. On June 14, 2004, Eister wrote to Luchko, "I made the announcement this morning at the [Senator's] staff meeting and I'm not the most popular person with the staff right now." One staff member recalled that at some point following that meeting, she recalled Eister working on her computer and seeing him at the workstations of other staff members. On November 15, 2004, Luchko wrote a message to Eister which stated, in part: "He is back on the email kick he had me check every PC in here to make sure no one is saving his mail. How are you making out with that up there?" Eister responded, "People are doing a really good job of policing themselves. That makes me happy." Luchko answered, "I would let [the Senator] know."

There is also significant evidence of efforts to destroy the e-mail of the non-profit organization. This effort heightened when the United States Attorney, on January 19, 2005, wrote to counsel for the organization and expressed concern with regard to why little e-mail of the organization had been produced to the grand jury despite the issuance of a subpoena to the organization for such materials in April 2004. In subsequent days, even as the organization's attorney unknowingly promised to the government that the organization would endeavor to produce existing e-mail, Luchko, Eister, and others took steps to assure that none would be recovered. In part, Eister assured that all traces of the organization's executive director's e-mail had been erased from the relevant server in Harrisburg. In an e-mail dated February 3, 2005, Luchko wrote to Eister, "I met with my lawyer today and the FBI tomorrow if I were you I would make sure everything is clean on [the Senator's] server they were asking me about our email where is the server etc." A few minutes later, Luchko added, "They are looking for emails to and from [Executive Director] and they are pissed because I wiped her PC and destroyed her old card."

May 31, 2006

Page 4

I think their last gasp is email that might have been left on the server but she hasn't used [her Senate e-mail address] since last February so I can't imagine anything from her is still around. Right" In other correspondence, Eister confirmed that he checked the Harrisburg equipment and assured that no trace of the executive director's activities remained. An FBI forensic examination of the executive director's office computer confirmed that a wipe program known as "Deep Clean" was run on December 9, 2004, August 6, 2004, and June 14, 2004.

Luchko, at the same time, instructed the executive director regarding how to delete documents, and then wiped her computer which she kept at a shore house in New Jersey. At the same time, the evidence suggests, Luchko wiped a computer used by the Senator at his shore house.

On February 5, 2005, Luchko wrote to Eister, in part, "I think they are going to ghost [the Executive Director's] PC and try to recover email. Good Luck to them because they are going to need it." Eister responded, "As far as the FBI, glad to hear they don't want to look at the server; yet. I hope it stays that way." Luchko later added: "I think they are going to be completely surprised when they check out [the Executive Director's] PC when they get a load of the Card setup and the Keystroke monitor detector's and Secure Clean Software along with PGP. They aren't getting shit off that PC and once they look it over it's the last time anyone uses that PC....."

On February 18, 2005, FBI and IRS agents executed a search warrant on the Senator's Philadelphia district office on Tasker Street. When agents arrived, a wipe was running on Luchko's computer after he had left for the day. Luchko, who returned to the office during the search, said he started it before he left and that he did such a wipe regularly. A co-worker of Luchko (referred to in the affidavit as "Person No. 1") testified that the destruction of evidence and wiping of computers continued unabated for at least six weeks after the execution of the search warrant.

As these and other e-mails cited in the affidavit reveal, Luchko, Eister, and others repeatedly referred to the FBI investigation as the reason for their effort to destroy electronic evidence. Luchko expressed to others that he was motivated by the concern that his job depended on the Senator's ability to withstand being charged for a federal offense. For instance, Person No. 1 recalled Luchko "[s]aying that if the Senator was indicted, for whatever reason the Senator was not in office that we wouldn't have our jobs."

Forensic examinations of computer equipment seized through the search warrant and subpoenas confirmed that the efforts to destroy and render the Senator's and the Organization's relevant e-mail unrecoverable were successful. Of approximately 84,000 e-mails recovered by the FBI from all of the computer equipment, fewer than 125 pertain to the non-profit organization at all and of that amount, even fewer are pertinent to any of the issues relevant to the criminal investigation. The organization's executive director herself was left with virtually no e-mail at all regarding her entity dated prior to January 1, 2005, on any of her computers, and no e-mail at all which relates to this investigation.

Further proof of the success of the conspiracy comes from the recovery of e-mail from third party sources. The government is in possession of numerous e-mails in which the Senator is a sender or recipient and which demonstrate that he instructed the executive director to use the non-profit organization's funds to pay for projects and causes that were important to the Senator. Among such e-mail cited in the affidavit is a September 2000 exchange, in which a former aide to the Senator recommended expanding the size of the non-profit's staff and putting in place a new, full-time management team. The Senator responded, "Yes, that would be nice but then it would cost us a lot more and CONFIDENTIALLY (only because I trust you) if we had such a person and tried to do some of the things that are political that we do, we would now have someone else 'in our tent' and we would be subject to his blackmail if they so chose to do it." All such e-mail evidence obtained from third parties was never found in any of the Senator's or non-profit's computers or exchange servers, despite the fact that the users of this computer equipment, including the Senator, retained other e-mail not pertinent to this investigation which dated as far back as 1998.

As the affidavit sets forth, there is evidence that the Senator himself was aware of and approved the effort to destroy evidence. For example, Person No. 1, also a member of the Senator's computer staff, testified before the grand jury that the Senator "knew that we were deleting, that we were deleting the mail out of people's accounts. He was aware that we were doing the free space wipes." Person No. 1 confirmed that he would not have been doing this without the Senator's "knowledge and blessing."

United States Attorney Meehan explained that only Luchko and Eister are being charged at this time, as his office, the FBI, the IRS Criminal Investigation Division, and the grand jury methodically pursue their investigation. "Let me assure the people of Pennsylvania that the alleged actions by the defendants charged today presented an obstacle for law enforcement, not a dead end," he said.

"This is a very serious matter which goes to the heart of our judicial system," added Lynch. "The FBI will continue to be focused on public corruption, those activities of a criminal nature which tear at the foundation of the public trust."

**UNITED STATES ATTORNEY'S OFFICE
EASTERN DISTRICT, PENNSYLVANIA
Suite 1250, 615 Chestnut Street
Philadelphia, PA 19106**

**Contact: RICH MANIERI
Media Contact
215-861-8525**

*COPIES OF NEWS MEMOS AND RELATED DOCUMENTS CAN ALSO BE FOUND AT
[HTTP://WWW.USDOJ.GOV/USAO/PAE](http://www.usdoj.gov/usaop/pae)*